

THE HONORABLE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTONANGELA HOGAN, on behalf of herself and
others similarly situated,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. 2:21-cv-00996-MLP

NOTICE OF RELATED CASES

Plaintiff Angela Hogan, individually and on behalf of all others similarly situated, submits this Notice of Related Cases as required under Local Civil Rule 3(g). Plaintiff believes that the following cases pending in the United States District Court for the Western District of Washington satisfy the criteria for relatedness set out in Local Civil Rule 3(g):

Case Caption	Case Number	Presiding Judge
<i>De Coster, et al. v. Amazon.com, Inc.</i>	2:21-cv-693	Chief Judge Ricardo S. Martinez
<i>West, et al. v. Amazon.com, Inc.</i>	2:21-cv-694	Chief Judge Ricardo S. Martinez
<i>Seberson v. Amazon.com, Inc.</i>	2:21-cv-01009	Not yet assigned

Seberson was filed on July 28, 2021, two days after Plaintiff Hogan brought this action. *Seberson* is related to Plaintiff's case because it concerns the same parties, property, transactions, and events.¹ Specifically, both cases are putative class actions alleging that

¹ W.D. Wash. LCR 3(g)(4)(A).

Amazon violated the antitrust laws by tying third-party sellers' access to Amazon's "Buy Box" to their paying for Amazon's logistics service (Fulfillment by Amazon), and that this unlawful tying arrangement led directly to overcharges on purchases made by consumers through the Buy Box. Both Plaintiff Hogan's case and *Seberson* seek to certify a class of U.S. consumers who purchased an item through Amazon's Buy Box (whether from Amazon or a third-party seller) that was then shipped (or "fulfilled") by Amazon. Because Plaintiff's case and *Seberson* involve the same factual allegations and legal theories, it is "likely that there will be an unduly burdensome duplication of labor and expense or the potential for conflicting results if the cases are conducted before different judges."²

De Coster and *West* were consolidated before Chief Judge Ricardo S. Martinez on June 21, 2021 under *De Coster*'s case number, 2:21-cv-693. The consolidated amended complaint in *De Coster* brings a putative class action alleging that Amazon violated the antitrust laws by (1) entering into horizontal price-fixing agreements with its two million third-party merchants, (2) obtaining monopoly power in the online retail sales market in the United States, and (3) attempting to obtain monopoly power in the online retail sales market in the United States. The consolidated complaint in *De Coster* defines the putative class as "[a]ll persons who on or after May 26, 2017, purchased one or more goods on Amazon's marketplace."

While Plaintiff Hogan's case also is a putative class action alleging that Amazon violated the antitrust laws, it is premised not on price-fixing agreements but on an unlawful tying arrangement. Plaintiff alleges that Amazon violated the antitrust laws by tying third-party Sellers' access to the Buy Box (the tying product)—through which 90% of Amazon purchases are made—to Sellers' purchasing Amazon's Fulfillment services (the tied product). Plaintiff Hogan alleges that this tying arrangement directly resulted in higher prices for items purchased through Amazon's Buy Box and that the tying arrangement

² W.D. Wash. LCR 3(g)(4)(B).

violates both Sections 1 and 2 of the Sherman Act. Plaintiff Hogan’s proposed class consists of “[a]ll persons who, while residing in the United States, purchased an item during the Relevant Period through Amazon’s Buy Box, and the order was then shipped (or ‘fulfilled’) by Amazon,” and the Relevant Period is defined as January 1, 2013 through the present.

Although Plaintiff Hogan’s case need not be related to and consolidated with *De Coster* and *West* because her claims are based on factual allegations and legal theories different from those in *De Coster* and *West*, the actions concern many of the same parties:³ Amazon and persons who made purchases through its website. These cases also concern many of the same transactions,⁴ namely purchases through the Amazon website—although the purchases in Plaintiff Hogan’s case cover a period that is twice as long as the period in *De Coster* and *West*, and Plaintiff Hogan’s case is limited to purchases made through the Buy Box and fulfilled by Amazon.

Given the numerous differences between this action and *De Coster* and *West*, Plaintiff Hogan does not believe that there is a likelihood of “unduly burdensome duplication of labor and expense.”⁵ Nonetheless, the cases are related in the sense that there is a potential for conflicting results on one issue if the cases are conducted before different judges.⁶ Plaintiff Hogan’s complaint and the consolidated *De Coster* complaint both allege (in the context of claims under Section 2 of the Sherman Act) that Amazon possesses monopoly-level market power in the online retail sales market in the United States. On this single issue, there is a potential for conflicting results if the cases are conducted before different judges.

³ See W.D. Wash. LCR 3(g)(4)(A).

⁴ See *id.*

⁵ W.D. Wash. LCR 3(g)(4)(B).

⁶ See *id.*

1 RESPECTFULLY SUBMITTED AND DATED this 29th day of July, 2021.

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